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means for executing the at least one user interface so that the service is controllable and operable by the user through the at least one user interface; and

means for removing the at least one user interface.

REMARKS

Claims 1 to 20 are now pending. Claims 1, 10 and 15 have been amended. Support for these amendments is found in at least the Specification. No new matter has been added.

Applicant respectfully requests reconsideration of the present application in view of this response.

In view of the claims above, it is respectfully submitted that none of the cited references disclose or suggest an apparatus as claimed in claims 1 or 15, or a method as claimed in claim 10. However, to be complete, Applicant respectfully submits the following arguments in response to those rejections in the Office Action made final.

Claims 1, 2, 5, 7, 10 and 15, were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,485,370 to Moss et al. (the "Moss reference").

Applicant respectfully submits that any review of the Moss reference makes plain that it simply does not in any way identically disclose or suggest an apparatus as claimed in claim 1 or 15, or a method as claimed in claim 10.

Specifically, the Moss reference does not in any way identically (as it must for anticipation) disclose or suggest an apparatus that includes a "a control and operating device executing a user interface to control and operate the service" wherein the control and operating device is assigned to the user-side terminal and the at least one network server transmits the user interface program to the control and operating device before the service is used, the user-side terminal capable of being independent of the service, as in claim 1. Claim 1 as written requires that the control and operating device is assigned to the user-side terminal and that the at least one network server transmits the user interface program to the control and operating device before the service is used. And, the user interface program is configured to implement the service. Moreover, claim 1 provides that the user-side terminal is capable of being independent of the service; that is, the network-based service can be used by a user without requiring that the user-side terminal be specifically adjusted to that service. See Specification.

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The Moss reference does not identically disclose or even suggest the foregoing features of claim 1. The Moss reference purportedly concerns a system providing communication between a home terminal such as a telephone, and a service provider such as a financial institution. See Moss reference, Abstract. Apparently, the system's application software transforms user commands into commands understood by the service provider's system, and a network host computer of the system provides messages to the home terminal to obtain required information from the user and then communicates this information to the service provider. See Moss reference, Abstract.

In stark contrast to claim 1 of the above-identified application discussed above, the Moss reference purportedly discloses use of a network-based system which downloads updated versions of a user's application programs automatically each time the user connects to the network. See Moss reference, col. 3, ll. 48-53. That is, it is understood that the user's computer having, e.g., application X1999 may be automatically updated to application X2000 – the user's computer contains the application *and* the downloads from the network are dependent on the application stored by the user's computer. See also, Moss reference, col. 12, ll. 50-61, and col. 5, ll. 21-26 (these cites believed to further explain the fundamental necessary dependency of the Moss reference network-based system and the software/applications already stored on a user's computer) . (Applicant also respectfully refers to Applicant's earlier discussions in earlier Amendments/Responses to Office Actions for the above-identified application).

Applicant respectfully submits that the Moss reference does not anticipate claim 1 since it does not identically disclose the claim 1 features discussed above, and that claim 1 is therefore allowable.

Since claims 2, 5 and 7 depend from claim 1, these claims are allowable for at least the same reasons as claim 1.

Since claims 10 and 15 include features analogous to those of claim 1, claims 10 and 15 are allowable for essentially the same reasons as claim 1.

Accordingly, Applicant respectfully submits that claims 1, 2, 5, 7, 10 and 15, are in a condition for allowance, and withdrawal of the rejection under 35 U.S.C. §102(b) in view of the Moss reference is respectfully requested.

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Claims 3, 4, 6, 8, 9, 11 to 14, and 16 to 20, were rejected under 35 U.S.C. § 103(a) as unpatentable over the Moss reference in view of U.S. Patent No. 5,838,682 to Dekelbaum et al. (the "Dekelbaum reference").

Claims 3, 4, 6, 8, 9, 11 to 14, and 16 to 20, depend, either directly or indirectly from one of claims 1, 10 and 15. As discussed above, the Moss reference does not in any way disclose or suggest the features of any of those claims.

The Dekelbaum reference does not cure the critical deficiencies of the Moss reference. The Dekelbaum reference purportedly concerns an internet type access system that includes an autodialer for automatically establishing communications with a merchant's facility over a switch network while maintaining internet connectivity over a packet data network. See Dekelbaum reference, Abstract. As characterized, the autodialer coordinates between the internet session and the switched connection with the merchant's server. See Dekelbaum reference, Abstract.

The Dekelbaum reference does not disclose or even suggest an apparatus that includes a control and operating device executing a user interface to control and operate the service wherein the control and operating device is assigned to the user-side terminal and the at least one network server transmits the user interface program to the control and operating device before the service is used, the user-side terminal capable of being independent of the service, as in claim 1.

As discussed, claims 10 and 15 include features analogous to those of claim 1, and are therefore allowable for essentially the same reasons as claim 1.

Since claims 3, 4, 6, 8, 9, 11 to 14, and 16 to 20, depend, either directly or indirectly from one of claims 1, 10 and 15, those claims are allowable for essentially the same reasons as at least one of claims 1, 10 and 15.

Accordingly, Applicant respectfully submits that claims 3, 4, 6, 8, 9, 11 to 14, and 16 to 20, are in a condition for allowance, and withdrawal of the rejection under 35 U.S.C. §103(a) under the Moss reference in view of the Dekelbaum reference is respectfully requested.

Claims 1, 10 and 15 were amended without prejudice to further clarify the claimed invention. These amendments do not add new matter, and it is respectfully requested that they

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be entered. Attached hereto is an Amendment Version With Markings showing any additions by underlining and any deletions by bracketing to claims 1, 10 and 15.

<u>CONCLUSION</u>

In view of all the above, it is believed that rejections of claims 1 to 20 have been obviated, and that currently pending claims 1 to 20 are allowable. It is therefore respectfully requested that the rejections be reconsidered and withdrawn, and that the present application issue as early as possible.

If it is believed that it would further allowance of the present application, the Examiner is invited to contact the undersigned via telephone at 1-212-425-7200, at any time.

Respectfully Submitted,
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AMENDMENT VERSION WITH MARKINGS

IN THE CLAIMS:

Please amend without prejudice claims 1, 10 and 15 as follows:

1. (Four Times Amended) An apparatus for using a service made available in a telecommunications network, the apparatus comprising:

at least one network server having a user interface program, the user interface program being configured to implement the service;

a user-side terminal, the user-side terminal being capable of connection to the at least one network server; and

a control and operating device executing a user interface to control and operate the service;

wherein the control and operating device is assigned to the user-side terminal and the at least one network server transmits the user interface program to the control and operating device before the service is used, the user-side terminal capable of being independent of the service.

10. (Thrice amended) A method for using a service made available in a telecommunications network wherein at least one network server stores at least one user interface program, the at least one user interface program providing operating functionality, said method comprising:

using a user-side control and operating device or terminal to request the at least one user interface program to be transmitted from the at least one network server to the control and operating device before the service is used, and

executing the user interface program by the control and operating device, so that an operator can control and operate the service through a user interface,

wherein the user-side control and operating device or terminal is configured [capable of being] independent of the service.

15. (Amended) An apparatus for using a service in a telecommunications network, the apparatus comprising:

means for providing at least one user-interface providing an operating functionality;

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    means for serving a network and for storing at least one user-interface;

    means for requesting transmission of the at least one user-interface to the means for requesting, before the service is used; [and]

    means for executing the at least one user interface so that the service is controllable and operable by the user through the at least one user interface; and

    means for removing the at least one user interface.

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